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DNR-FS-2022-10

## SMALL BUSINESS COMPLIANCE GUIDE

### Amendment to Subtitle 02 Fisheries Service

Regarding the Department's Regulations for Fees for Purchasing, Hauling, and Planting Fresh Oyster Shell

COMAR 08.02.04.11

Released October 14, 2022

Updated April 24, 2023

This Guide is prepared in accordance with the requirements of State Government Article, §10-110, Annotated Code of Maryland. It is intended to help small businesses comply with the revised rules adopted in the above-referenced sections of the Code of Maryland Regulations. This Guide is not intended to replace or supersede these rules, but to facilitate compliance with the rules. Although we have attempted to cover all parts of the rules that might be especially important to small businesses, the coverage may not be exhaustive. This Guide cannot anticipate all situations in which the rules apply.

The Department will clarify or update the text of the Guide as an idea moves through the regulatory process. Direct your comments and recommendations, or calls for further assistance, to Fishing and Boating Services Regulatory Division:

410-260-8300

410-260-8DNR; toll free in Maryland 877-620-8DNR; TTY Users Call via the Maryland Relay

## **I. SUMMARY & FAQs**

### **What was proposed?**

The Department has proposed altering the procedure for establishing the fair market value the Department pays for fresh oyster shells and transportation and placement of fresh oyster shells. The current value is set by regulation; the Department is considering changing the regulation to set the value by public notice.

### **Why is this change necessary?**

Current regulation sets the rate to be paid by the Department to any person for the hauling and planting of fresh oyster shell at 25 cents per bushel and the rate to be paid to purchase fresh oyster shell at \$2 per bushel, for a total of \$2.25 per bushel. The actual 2022 cost to purchase out-of-state shell, transport, and plant shells was \$7.25 per bushel. As a result, Maryland shucking houses are not selling to the Department because of these current values established in regulation. Changing the process of establishing the rate paid by public notice each year, rather than setting the rate in regulation, will allow the Department to pay a competitive fee based on current market conditions. If the rate set by the Department is actually reflective of market conditions, more Maryland shucking houses may be willing to sell to the Department, thereby allowing the Department more access to shells.

### **Who will this affect?**

The proposed regulation may affect Maryland oyster shucking businesses.

### **Has this change been discussed with advisory commissions?**

Many discussions within OAC, TFAC, Statewide Oyster Industry Committee, and the County Oyster Committees have occurred all of which express interest in obtaining more shell. The need for the Department to be able to pay actual market rates has been recognized in these conversations.

### **What is the specific regulatory action?**

Amend Regulation .11 under COMAR 08.02.04

## **II. RECORDKEEPING AND REPORTING REQUIREMENTS**

This proposal alone will not create any new recordkeeping or reporting requirements.

## **III. IMPLEMENTATION DATE**

The Department anticipates that this change to be effective in the spring of 2023, however the exact date cannot be determined. The Department is following our normal procedures.

During the scoping process, the Department gathers suggestions and ideas from stakeholders and others about how to solve a fishery problem or address a need. The goal of scoping is to identify issues, potential impacts, and reasonable alternatives associated with the issues so that management actions can be developed. After the public has had an opportunity to comment on possible management actions during the scoping process, the Department considers these

comments and develops an appropriate management strategy. This idea for the proposal was scoped from October 14 — October 31, 2022.

At the conclusion of the scoping process, the Department determined that the action is necessary and appropriate. The rules will be promulgated following the Administrative Procedures Act described in Title 10, Subtitle 1 of the State Government Article Annotated Code of Maryland.

- The General Assembly’s Administrative, Executive, and Legislative Review Committee reviews the regulatory proposal for fiscal and legal analysis.
- The proposal is printed by the Division of State Documents in the Maryland Register.
- A 30 day public comment period begins on the day of publication. The proposed action was printed in the Maryland Register on April 21, 2023. The comment period will close at 11:59 p.m. May 22, 2023.
- After review of the comments, the Department may adopt the changes.
- If the Department adopts the changes, they become effective after a notice is published in the Maryland Register that announces approval and the effective date.